IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6233 of 2007()

[CRIME NO.96/07 OF ENATHU POLICE STATION]

: APPLICANT/ACCUSED NO.3

SHANAVAS, S/O.SHAMSUDEEN RAWTHER,
SHYLALAYAM, MANNADI THAZHATHU MURI,
MANNADI, KADAMPANADU VILLAGE, ADOOR TALUK.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING THE S.I. OF ENATHU POLICE STATION.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6233 of 2007

Dated this the 22nd day of October, 2007

ORDER

Application for regular bail. The petitioner is the 3rd accused in a crime. Altogether there are 5 accused persons. The crux of the allegations against the accused persons is that they were involved in illicit transportation of 2310 litres of spirit. In the F.I.R no persons are arrayed as accused. F.I.R is registered consequent to the information received by the police that a lorry with 66 cans of illicit liquor was found at the scene of the crime in an abandoned stage. Investigation commenced. In the course of investigation, it was revealed to the police that the petitioner is the one who was actively involved in dealing with the spirit which was transported to the scene of crime. Due to some mechanical trouble, the vehicle could not be moved and therefore the illicit liquor that was available in the vehicle was allegedly removed in part and transported by the accused persons, including the petitioner herein. The petitioner was arrested on 14.09.07. He continues in custody from that date. For appearing in a P.S.C examination, the petitioner was permitted to be enlarged on bail from 29.09.07 to 03.10.07. After that short break, the petitioner surrendered back and is continuing in custody, it is submitted.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He has been unnecessarily arrayed as an accused. The petitioner may now be granted regular bail, it is submitted.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the available indications including the confession statement of the petitioner herein clearly point to the complicity of the petitioner. There are no circumstances whatsoever which justify the prayer for release of the petitioner on regular bail at this early stage, submits the learned Public Prosecutor .

4. I have considered all the relevant inputs. In the wake of opposition by the learned Public Prosecutor , regular bail can be granted to the petitioner only if this Court is in a position to entertain both satisfactions contemplated under Section 41 A of the Kerala Abkari Act. In the facts and circumstances of the case to which I have already made brief reference, I am not at all persuaded to entertain either of those two satisfactions. I find merit in the opposition of the learned Public Prosecutor. In a case like this the investigator is certainly entitled to reasonable further time to complete the investigation.

5. This application is, in these circumstances, dismissed. I may hasten to observe that the petitioner shall be at liberty to move this Court for bail again at a later stage of the proceedings, not, at any rate, prior to 05.11.2007. The investigator shall in the meantime make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

rtr/-